



LAND AND PROPERTY RIGHTS TRIBUNAL

Citation: Kellar v Questfire Energy Corp, 2025 ABLPRT 904448

Date: 2025-07-21

File No: RC2024.1204

Order No: LPRT904448/SR2025

Municipality: Municipal District of Wainwright No. 61

In the matter of a proceeding commenced under section 36 of the *Surface Rights Act*, RSA 2000, c S-24 (the “Act”)

And in the matter of land in the Province of Alberta within the:

SW-26-47-8-W4M as described in Certificate of Title No. 232 038 657 (the “Land”), particularly the area granted for an access road in LSD 3, 4 & 5 by Alberta Energy Regulator Licence No. 0082318 (the “Licence”), collectively (the “Site”).

Between:

Questfire Energy Corp.
and
Candor Investments Ltd.,

Operators,

- and -

Lawrence Albert Kellar,

Applicant/Owner.

Before: Susan McRory (“the Panel”)

Appearances by written submissions:

For the Applicant: Terry Roberts, Counsel – NICKERSON, ROBERTS, HOLINSKI & MERCER

DIRECTION TO PAY PURSUANT TO SECTION 36 OF THE ACT

The Tribunal directs the Minister to pay out of the General Revenue Fund the total sum of SIXTEEN THOUSAND EIGHT HUNDRED and 00/100 DOLLARS (\$16,800.00) to Lawrence Albert Kellar in the Province of Alberta, comprised of compensation that became due in the years 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024 (the “Compensation”).

DECISION AND REASONS

[1] On September 16, 2024, Counsel on behalf of the Applicant filed an application under section 36 of the *Act* seeking recovery of unpaid compensation due under a surface lease agreement dated May 1, 1980. The annual rate of compensation was reported to be \$2,100.00; the request was for missed payments in 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024. File number RC2024.1204 was assigned to this application.

Counsel very clearly indicated that this was an application for a roadway within the SW quarter of Section 26, not a well site.

However, there was limited information provided in support of the application.

The only documentation was a remittance statement and cheque stub dated April 16, 2014 from Questfire Energy Corp. (QUESTFIRE) in the amount of \$2,100.00 referencing a lease date of May 1, 1980 and a rental period of "From May 01/2026 To April 30/2027." The description of the site was confusing:

TWP 47 RGE 8 W4M E 26

TWP 47 RGE 8 W4M SW-26

QUESTFIRE VIK-KINS 11-25-47-8 W4

100/11-2-/047-08-W4

This would appear to be a reference to two sites in Section 26, yet the Unique Well Identification number refers to a well in LSD 11 in the NW ¼ of Section 25.

Counsel did provide an aerial photo of the SW ¼ of Section 26 which clearly shows an access road of considerable length that traverses LSD 4, 3 and 6. The photo is dated August 28, 2024.

While the Tribunal obtained copies of the current and historical Certificates of Title, there is no reference to a surface lease.

[2] At the same time, Counsel filed another application for an access road within the east quarter of Section 26 for which File Number RC2024.1205 was assigned.

On March 20, 2025 the Tribunal issued an Incomplete Application Notice. Although the Notice was in connection with File RC2024.1205, Counsel responded referencing RC2024.1205 and RC2024.1204. Counsel indicated that there are two separate leases, but no copies could be provided and no further information would be available.

[3] Records obtained from the Alberta Energy Regulator (AER) identified QUESTFIRE as the current Licensee. There were two working interest participants: QUESTFIRE and Candor Investments Ltd. (CANDOR). According to Corporate Registry, both corporations have been struck.

[4] Based on the limited information provided by the Applicant, there was insufficient evidence upon which to base an award.

RECORDS OBTAINED BY THE TRIBUNAL

[5] However, the Tribunal was able to conduct more advanced searches which do provide the evidence that is required.

[6] The Tribunal obtained copies of the caveats registered on title. Caveat 792305956 protects a surface lease dated November 28, 1979 held by Hudson's Bay Oil and Gas Company. (HUDSON BAY). Caveat 802076524 refers to an assignment of the HUDSON BAY lease to Merland Explorations Limited (MERLAND) dated March 13, 1980.

The Merland caveat included a copy of the survey plan which illustrates an access road on LS 6. This road does not correspond to the access road for which compensation has been requested in the application that is before this Panel today. However, this may be information relevant to File RC2024.1205.

[7] However, Caveat 802112029 does reference a surface lease dated May 1, 1980 between Lawrence Albert Kellar and Northwestern Utilities Limited. While the caveat does not include a copy of the surface lease or survey plan, this is consistent with the cheque stub from QUESTFIRE.

[8] Further, a search of the Tribunal's historical files reveals a section 27 application made by counsel in March of 1986. The applicant sought a review of compensation for a surface lease dated May 1, 1980. The application does include a copy of the surface lease and survey plan. The annual rate of compensation as indicated in the original surface lease was \$1,400.00, and the survey plan does correspond to the aerial photograph included in the 2025 section 36 application.

Based on correspondence on the file, the application under section 27 was withdrawn when counsel indicated that a settlement had been reached.

The historical record is preserved on microfiche and no hard copy is available.

ISSUES

1. Who is an Operator for the purpose of section 36 of the *Act*?
2. Is there money past due and unpaid by the Operator to the Applicant under a Right of Entry Instrument?
3. Should the Tribunal direct the Minister to pay the Applicant any of the money past due under section 36 of the *Act*?
4. Should the Tribunal suspend and terminate the Operator's rights?

DECISION

1. For the purposes of section 36 of the *Act*, the Operators are QUESTFIRE and CANDOR.
2. The written evidence proves compensation in the amount of \$16,800.00 is payable to the Applicant by the Operator.
3. Without further notice, the Tribunal directs the Minister to pay the Applicant Compensation in the amount of \$16,800.00 from the General Revenue Fund.
4. No orders of suspension or termination will be issued.

ANALYSIS

Who is an operator for the purpose of section 36 of the Act?

[9] Section 36(1) and (2) expand the definition of “operator” so that it has a broader meaning than in the rest of the *Act*.

Under section 36(1)(c), the holder of a licence issued by the AER and its successors are Operators. The License for a well site on LSD 11 in the NW quarter of Section 25 is linked to the access road shown on the survey plan attached to the original license. The Licensee for the associated well is QUESTFIRE as of May 9, 2013. Therefore, the Panel finds this party is an Operator under section 36(1)(c) for the years 2017 to 2024. This is also consistent with the description of the site in the cheque stub dated April 14, 2014.

Under s. 36(1)(d), working interest participants and their successors are Operators. The Panel finds that QUESTFIRE and CANDOR are Operators under section 36(1)(d) for the years 2017 to 2024 because the AER Well Summary Report dated March 20, 2025 shows that they were working interest participants on the Site as of March 8, 2017.

Under section 36(1)(e), the holder of the surface lease or right of entry order for the Site and its successors are Operators. The Panel finds QUESTFIRE is an Operator on the due dates in 2017 to 2024 as per section 36(1)(e) because it is the Operator named on correspondence relating to the site.

[10] As both QUESTFIRE and CANDOR have been struck from Corporate Registry, notice was not served as per the Interpretation of Section 36(4) *Surface Rights Act* Guideline, ABSRB 2020-1 and ASRB Guideline 2014.1/2020.1

Is there money past due and unpaid by the Operator to the Applicant under a Right-of-Entry Instrument?

[11] The Certificate of Title confirms the Applicant is the owner; therefore, the Panel finds the Applicant is entitled to receive the money. The Tribunal has obtained evidence of a Right-of-Entry Instrument. As to the rate of annual compensation, the original rate was \$1,400.00, but the cheque stub from the Operator references a payment of \$2,100.00. The increase is consistent with correspondence on the section 27 file indicating that a settlement had been reached. The Applicant has declared in writing that the Compensation has not been paid for the years claimed. There is circumstantial evidence in support, which is that both Operators have been struck.

[12] The Panel is satisfied that compensation is owed to the Applicant for annual payment due under the Right-of-Entry Instrument. This amount is calculated as eight payments of \$2,100.00 due for 2017 to 2024 for a total amount owing of \$16,800.00. The Site is not reclaimed, and the Right-of-Entry Instrument remains in effect. The Panel finds that at the time the Compensation became due, the Operators were liable for the Compensation due to the Applicant.

Should the Tribunal direct the Minister to pay the Applicant any of the money past due from the General Revenue Fund under section 36 of the Act?

[13] The application was filed after the decision of the Court of King’s Bench in Bateman v Alberta (Surface Rights Board), 2023 ABKB 640. In Bateman, Justice Carruthers specified that under s. 36 of the *Act*, the Applicant need only prove there is a Right of Entry Instrument and default on the payment. Justice Carruthers indicated that, in the absence of extraordinary circumstances, the Tribunal should direct the Minister to pay the full amount owing.

In any event, this case shows clear evidence of an ongoing loss of use and adverse effect. The road is visible from a great altitude. This Panel has determined there is a right of entry instrument and money is owing. Accordingly, the Minister is directed to pay the Applicant \$16,800.00 from the General Revenue Fund.

Should the Tribunal suspend and terminate the Operator's rights?

[14] The Tribunal can suspend and terminate an operator's rights to access the Site when appropriate. Both Operators are insolvent and no longer accessing the site. This Panel will not issue orders of suspension and termination.

Dated at the City of Edmonton in the Province of Alberta this 21st of July, 2025.

LAND AND PROPERTY RIGHTS TRIBUNAL

Susan McRory, Chair.